

Exhibit 65

Reed Deposition

Kelly Reed

Pages: 5, 12, 13, 27, 28, 29, 30, 32, 33, 34, 35, 37, 38, 45,
48, 49, 50, 51, 52

Dated: May 5, 2021

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHARLES JOSEPH FREITAG,	:	NO. 2:19-cv-05750-JMG
JR., as Administrator of	:	
the ESTATE OF CHARLES	:	
JOSEPH FREITAG, SR.,	:	
Plaintiff	:	
	:	
vs.	:	
	:	
BUCKS COUNTY; PRIMECARE	:	CIVIL ACTION - LAW
MEDICAL, INC.; STEPHAN	:	
BRAUTIGAM, PMHNP;	:	
JESSICA MAHONEY, PSY.D.;	:	
AVIA JAMES, LPC;	:	
CHRISTINA PENGE, LPC;	:	
CORRECTIONAL OFFICER	:	
MOODY; CORRECTIONAL	:	
OFFICER MURPHY; and	:	JUDGE JOHN M. GALLAGHER
CORRECTIONAL OFFICER	:	
YOUNG,	:	
Defendants	:	

ZOOM DEPOSITION OF KELLY REED

DATE AND TIME: Wednesday, May 5, 2021
at 1:15 p.m.

KAPLAN LEAMAN & WOLFE
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1 dispense with some of my early instructions and
2 description of the case, since you've already heard them.
3 If at any point, however, you'll -- you feel like I'm
4 asking you a question where I've left something out, you
5 don't have the details, let me know and then I'll go back
6 and explain.

7 A. Perfect.

8 Q. Just to -- to wrap that up, though, do
9 you have a general understanding of what this case is
10 about and the incident that it concerns?

11 A. Yes, I do now.

12 Q. Very good. Do you have -- have you ever
13 testified in a deposition before?

14 A. No.

15 Q. Have you ever testified in court before?

16 A. As a victim.

17 Q. So in a -- in a criminal matter. Is that
18 correct?

19 A. Yes.

20 Q. How long ago was that?

21 A. A couple years now.

22 Q. Generally, you understand what it means
23 to testify under oath. Can I assume that?

24 A. Yes.

25 Q. And you understand that this proceeding,

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1 A. Yes.

2 Q. Haven't left for any other jobs. Is that
3 correct?

4 A. Correct.

5 Q. Could you walk me through then the
6 various responsibilities and titles that you've had from
7 '03 through the present?

8 A. So I started as a Case Manager. That
9 was in '03. I was employed as a Case Manager for about
10 11 years, and then I was promoted to Community
11 Corrections Manager. That was over at a separate
12 building, the Community Corrections Center, but still
13 under the DOC. Did that for about four years, and then
14 I was promoted again to -- back then it was Assistant
15 Warden.

16 Q. And that title changed. Is that correct?

17 A. Yes, it changed three times.

18 Q. And now it is Deputy Warden of -- my
19 goodness, you've told me seven times now and I forget --
20 Deputy Warden of Treatment?

21 A. Close. It's one of the three. No.
22 It's Deputy Superintendent of Programs now.

23 MR. KOLANSKY: What did you have for
24 lunch, Jon?

25 MR. FEINBERG: Not enough, apparently.

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1 So, let's -- well, I'm not one to stand on ceremony,
2 Jeff, as you know, so titles don't mean anything to me.

3 BY MR. FEINBERG:

4 Q. So, Ms. Reed, let's -- let's discuss now
5 the -- the responsibilities in your current job. I take
6 it, despite the change in titles, you've had the same
7 responsibilities. Is that correct?

8 A. Correct.

9 Q. Could you tell me what you do on a
10 day-to-day basis?

11 A. So I oversee all the treatment areas,
12 Medical, Mental Health, the Case Managers, Drug and
13 Alcohol. I assist with policy. I ensure that all
14 departments are up and running. I conduct grant writing
15 and grant reporting. The list goes on. I also oversee
16 PREA. I'm the PREA Coordinator at the moment.

17 Q. You mentioned -- the first two items you
18 mentioned were that you oversee Medical and Mental
19 Health. Did I hear you correctly?

20 A. Yes.

21 Q. Now, obviously, I'm aware that PrimeCare
22 Medical provides the medical and mental health
23 practitioners who work in that unit. Is that correct?

24 A. Yes.

25 Q. What -- what involvement do you, on the

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1 professionals refer to this generically as bad news
2 category. Have you ever heard that phrase before?

3 A. Yes.

4 Q. And -- and -- and maybe it sounds
5 obvious, but any type of incidents, including denial of
6 bail, denial of parole, receiving a sentence, getting
7 convicted, those are all consequences that could increase
8 the risk of suicide. Is that correct?

9 A. Absolutely.

10 Q. And to show you specifically the -- in
11 the policy, the text that's highlighted there -- why
12 don't I just read it. Inmates may become suicidal at any
13 time during their incarceration. Suicidal behavior is
14 more likely at critical periods of time, including
15 commitment and the first several days thereafter, court
16 hearings, sentencings and so on.

17 Did what I just read, does -- is that
18 consistent with your basic understanding of how risks of
19 suicide may be present in a -- in an inmate population?

20 A. Yes.

21 Q. All right. Given that knowledge -- I'm
22 sorry, before I even get there, can I assume that you're
23 here on Bucks -- Bucks -- on behalf of Bucks County, that
24 Bucks County was fully aware of the increased risk during
25 these time periods?

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1 A. Yes.

2 Q. And I assume Bucks County would be aware
3 that failing to address risks at these time periods could
4 increase the risk of suicide or self-harm. Is -- is that
5 correct?

6 A. Yes.

7 Q. And that risk was -- was obvious to Bucks
8 County. Is that correct?

9 A. Yes.

10 Q. What practices were in place in August of
11 2018 to address this increased risk of suicide or
12 self-harm when people came back from court at these
13 critical time periods?

14 A. So Case Managers are required to touch
15 base with the inmates once they're sentenced or even
16 after any other court date if we find a need. The only
17 thing is, is our policy does not quote the amount of
18 time that they -- like should they check in immediately,
19 should -- do they have 72 hours. So there's no
20 timeframe noted, and there still isn't any noted to this
21 day.

22 However, when they do come back from
23 court, if they are sentenced to a lengthy sentence, our
24 Records Department usually flags it, contacts
25 Administration, as well as the person that's on Case

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1 Manager-wise, so that way we can touch base with them and
2 make a referral, if necessary.

3 If Mental Health is not around, we would
4 certainly put them in a -- on a watch level. If we
5 believed that they presented in a way that we deemed
6 appropriate, the person be placed on watch.

7 Q. Is it fair to say that in August of 2018,
8 the expectation or any decisions to be made by watch
9 would be made by correctional staff?

10 A. Yes. If Mental Health was not present,
11 absolutely, we would have to evaluate any person and
12 place them on a watch status if we thought it was
13 appropriate.

14 Q. I'm going to come back in a moment to
15 talk about -- or actually, that's the last topic about
16 whether Mental Health was available.

17 A. Okay.

18 Q. My understanding is that in 2018 Mental
19 Health left the facility no -- no later than 4:00 p.m.
20 Is that your recollection, as well?

21 A. I would like to say yes. I'm not a
22 hundred percent sure though.

23 Q. I'll show you some documents to confirm
24 that we're on the same page there. All right. Before we
25 do that, though -- let me ask you, when people come back

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1 from court, is -- was there a typical time -- first, even
2 more basic, how are prisoners -- pre-COVID, how were
3 prisoners transported from the prison to court?

4 A. By the Sheriff's Department and usually
5 it is around the same time every single day. Our p.m.
6 court run came back maybe 3:00, 4:00 o'clock, sometimes
7 later, so it did vary a little bit, but it was right
8 around that timeframe. By the time they were back in
9 process, et cetera, before they can be seen by anybody
10 else, it -- it does take a little bit of time.

11 Q. All right. So if they come back at 3:00
12 or 4:00 p.m., it's usually after 4:00 p.m. that they're
13 actually back in the facility and could be seen by
14 someone. Is that correct?

15 A. Correct.

16 Q. So when a -- in that time period, again,
17 back in 2018, for someone in that position, coming back
18 in the late afternoon, decisions about watch would be
19 made by correctional staff, as we've established. Is
20 that correct?

21 A. Correct.

22 Q. Now, obviously, correctional staff don't
23 have mental health training. Is that right?

24 A. No, we do, it's just limited, not to the
25 extent that, you know, a psychiatrist or psychologist

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1 their checks. Is that correct?

2 A. Correct.

3 Q. Now, I know this is outside of the topics
4 that we're going to address with you today, but let me
5 ask. Have you ever heard any discussion, in your
6 position, about problems with Correctional Officers or
7 Inmate Monitors complying with checks?

8 A. Yes.

9 Q. When did you hear about those problems?

10 A. Throughout my career. The number of
11 watches has always been an issue. There is a lot of
12 complaints. Whether or not they were completing all
13 their tasks, I can't really comment on that because I
14 never oversaw that directly, but I can say that officers
15 complained on a regular basis.

16 Nowadays there are still complaints, and
17 from time to time we do see issues where we have to
18 redirect staff to correct the problem.

19 Q. Let me -- let me drill down on that. You
20 said the complaints have to do with the number of
21 watches. I think I can make an assumption about why
22 that's a complaint, but could you articulate it for me,
23 as you understand it, at least?

24 A. The lack of time to make sure that
25 they're following policy and procedure accurately.

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1 Q. Got it. All right. So in other words,
2 officers are saying to you, in essence, we have to watch
3 so many people on our units we don't have time to do it
4 all. Is that correct?

5 A. Sometimes, yes, with all the other daily
6 duties that come about, yes.

7 Q. And the complaint is that because they
8 don't have time -- well, strike that. Then apparently
9 the -- the concern, from your perspective, is that if
10 they don't have time to do all the watches, then they're
11 not complying with what they're supposed to do on --
12 under the watch. Is that correct?

13 A. That's a concern, yes.

14 Q. You mentioned that you've heard that
15 complaint throughout your career since you started in
16 2003. Is that correct?

17 A. Yes.

18 Q. Can you -- can you even estimate for me
19 how many times you've heard that complaint?

20 A. Probably hundreds.

21 Q. So hundreds of times between 2003 and the
22 present you've heard officers say, we just don't have
23 enough time to do the watches we're supposed to do. Is
24 that correct?

25 A. Correct.

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1 Q. What actions, if any, has the
2 Administration taken to address those complaints?

3 A. I can't speak about my 11 years as a
4 Case Manager, but when I came back over here in the
5 Deputy spot, I mean, we supplied an extra officer on
6 certain modules to ensure that all their duties are
7 completed, especially if they are saying that they
8 cannot complete X, Y and Z, whether it includes watches
9 or not.

10 I mean, there -- there -- there's a lot
11 of things that we have done. We -- we do checks with the
12 supervisors now. Even if Mr. Nottingham commented on
13 this, you still want me to explain a little bit?

14 Q. And before you get into it, can -- can I
15 just -- you said at the beginning, but I didn't make a
16 note of it, when did you start in the Deputy
17 Superintendent position?

18 A. Two years ago in --

19 Q. Okay. So from 2019?

20 A. '19. Sorry, I'm talking over you.

21 Q. That's quite all right. Please continue,
22 and you can tell me about what else has been done since
23 you took that position in 2019.

24 A. Okay. We sent sergeants down to the
25 modules to make sure that all the watches are accurate

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1 and reflect appropriately in the computer, as well as
2 what they have on the module.

3 PrimeCare now sends out a digital form
4 through email, so we have it in writing versus word of
5 mouth. We're documenting more. The conversation saying,
6 hey, this person is off watch, so it's now documenting
7 who -- who that was relayed to and by who.

8 There's just a lot more effort into make
9 -- making sure it goes smoothly.

10 Q. If I understand your testimony then,
11 prior to you being in that position in 2019, from your
12 understanding, these complaints about officers' inability
13 to comply with their watch obligations were made with
14 regularity all throughout your career. Is that correct?

15 A. Yes.

16 Q. Are you aware of any steps that were
17 taken before 2019 to address those concerns?

18 A. I am not aware.

19 Q. Since you've taken those measures from
20 2019 through the present, have those complaints
21 decreased?

22 A. I would like to say yes.

23 Q. Now, when you say -- I -- your answer is
24 a beautiful one, and I -- I understand that you,
25 obviously, have some aspirations in your position, so my

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1 obligations. Is that correct?

2 A. Yes.

3 Q. Before you became the Deputy
4 Superintendent in 2019, given your position, I take it
5 you didn't have any authority to implement the procedures
6 that you've described. Is that correct?

7 A. Correct.

8 Q. Who -- who did have authority at that
9 point?

10 A. It was Lillian Budd.

11 Q. Oh, got it, okay. She was the Assistant
12 Warden?

13 A. Correct.

14 Q. So let's go back to -- I think we got on
15 this topic because I asked you that when a Case Manager
16 makes an assignment of a watch, the assumption that is
17 built in is that the officer will actually do the job.
18 Is that right?

19 A. Correct.

20 Q. And it sounds like, given what you've
21 described, that assumption back in 2018 was not a -- not
22 always a valid assumption. Is that correct?

23 A. Yes.

24 Q. Because there were -- it was known to
25 Bucks County at that point, in 2018, that the watches may

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1 not be completed as required. Is that correct?

2 A. I don't wanna say that they're -- they
3 weren't going to be completed, but it was never
4 validated after the fact.

5 Q. Got it. Okay. So -- and let me restate
6 my question and then use your -- your language. The
7 assumption that the watch would be completed was not a
8 valid one because no one was doing the checking and
9 monitoring to ensure that officers were doing their job.
10 Is that correct?

11 A. It was their duty to do so, but I don't
12 believe there was any follow through from Administration
13 to confirm that everybody is following rules and
14 regulations of the facility.

15 Q. Got it. And for that reason, what you've
16 just said, that's why once the assumption was made on
17 August 24th, 2018, that officers would check on Mr.
18 Freitag, that was not a valid assumption. Is that
19 correct?

20 MR. KOLANSKY: Objection to the form of
21 the question.

22 THE WITNESS: Yes.

23 BY MR. FEINBERG:

24 Q. Now, so we've discussed that Mr. Freitag
25 was placed on a Level 3 watch when he came back after he

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1 August, 2018, the nature of and any reasons for any such
2 changes.

3 I take it you're prepared to testify
4 about that topic. Is that correct?

5 A. Yes.

6 Q. We've already -- you've already described
7 for me that back in 2018, your expectation is that people
8 who were coming back from court in the afternoon would
9 get back after 4 o'clock. Is that right?

10 A. Correct.

11 Q. And your understanding is that Mental
12 Health staff were not available after 4:00 p.m. Is that
13 correct?

14 A. Correct.

15 Q. Let's do -- and just to review something
16 that we touched on before, but to dive in a little
17 deeper, the mental health training that Case Managers
18 have, would you agree, is not sufficient to fully assess
19 someone's risk of suicide? Is that correct?

20 A. Yes, agreed.

21 Q. Are you -- are you familiar with a
22 document or a psychological instrument called a Suicide
23 Risk Assessment?

24 A. I'm aware of it, but I don't believe
25 I've ever seen it.

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1 A. No, I don't recall.

2 Q. To my understanding, there has been a
3 change made that Mental Health staff are now available
4 until at least 5:00 p.m. for people -- when people return
5 from court. Is that your understanding, as well?

6 A. Yes, but unfortunately they recently
7 lost a few employees, so I'm not sure which person was
8 responsible for staying until 5 o'clock, so I can't
9 comment. It was just recent. And then they're also
10 losing another individual. So I would hope that they're
11 here to 5:00 still and managing, but I -- I don't -- I
12 can't really comment on that today.

13 Q. Got it. Okay. So -- so that's a
14 personnel issue as opposed to a policy issue. Is that
15 correct?

16 A. Right. It's their intention that
17 somebody was here till 5:00.

18 Q. And you used the phrase -- I think I
19 heard you say, hopefully they'll fill that position. Is
20 that right?

21 A. Yes. You know, sometimes it does take
22 time to fill positions.

23 Q. Sure. Can you articulate for me then
24 why, from your perspective in your role, it's important
25 to have Mental Health staff available when people return

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1 from court?

2 A. I think we should have Mental Health
3 staff available throughout the evening, honestly.
4 Unfortunately, a lot of issues arise in the evening when
5 they are not here. And we do have to make judgment
6 calls and, of course, we overestimate, for lack of a
7 better word. Like we would put somebody on a Level 1
8 when, in reality, the person should only be on a Level 2
9 just to be cautious. So it would be beneficial if we
10 actually had Mental Health staff here longer throughout
11 the day.

12 Q. Got it. Are there ever situations where
13 you're concerned that you might be underestimating?

14 A. Not typically.

15 Q. One of the set of facts that we've
16 discussed in the Freitag case -- and let me -- I'm going
17 to make some representations to you about the facts in
18 the case and Counsel can feel free to object, I'm just
19 giving you my understanding -- is that Mr. Freitag was in
20 custody between June, early June and August 25th of 2018.
21 And throughout that time he communicated to Mental Health
22 staff that he was deeply anxious about his upcoming
23 sentencing. Were you aware of any of those facts before?

24 A. No.

25 Q. And early on in the period of his

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1 incarceration, he advised Mental Health staff that he
2 wanted to see someone following his sentencing. Can I
3 assume you were not aware of that, as well?

4 A. I was not aware.

5 Q. Because his sentencing was scheduled to
6 take place on a Friday, August 24th of 2018, the earliest
7 appointment that could be made at that time for him to
8 see a mental health practitioner was on the following
9 Monday, the morning of August 27th. Were you aware of
10 those facts?

11 A. No.

12 Q. Dr. Abbey Cassidy in her deposition
13 several weeks ago, I believe testified that given Mr.
14 Freitag's presentation over the past -- over the previous
15 two and a half months before his death, it would have
16 been clinically appropriate for him to be seen
17 immediately upon return from court. Again, that's my
18 representation. Had you ever heard that before?

19 A. No.

20 Q. Okay. I -- I make all those factual
21 representations to you to lead up to this question.
22 Following or at any time in your position since January
23 of 2019, has there ever been any discussion about the
24 fact that you've gotta have mental health care available
25 to conduct risk assessments with people who they've spent

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1 months seeing?

2 A. On top of that, Abbey has reached out to
3 case management staff, as well, in the event her staff
4 isn't here to make them aware, hey, when this person
5 goes to court, this is the level -- appropriate level
6 they need. I don't recall that ever happening in the
7 past.

8 Q. So that's something that's happened
9 recently since you took your position. Is that correct?

10 A. Maybe even before that, but as a Case
11 Manager, I remember that never happening.

12 Q. So -- and you may not have the basis to
13 know this, but are you -- are you making an assumption
14 that that may be something that happened after Mr.
15 Freitag's death in August of 2018?

16 MR. KOLANSKY: Objection, form of the
17 question.

18 BY MR. FEINBERG:

19 Q. He's just putting that on the record --

20 A. Oh.

21 Q. -- but you can answer the question.

22 A. Okay. Yes, that would be my assumption.

23 Q. And it sounds like, from your
24 perspective, a prisoner who has a -- a history of mental
25 illness, when they come back from court, they should be

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1 seen. Is that correct?

2 A. Yes.

3 MR. KOLANSKY: Objection. Outside the
4 scope of the witness's testimony.

5 BY MR. FEINBERG:

6 Q. Can -- let me do this. I've asked --
7 I've asked the parties to provide me with records of when
8 this change was made to have an employee available in the
9 late afternoon following court, and the only thing that I
10 think I've seen to date is a document that I'm pulling up
11 now -- I think this is the first time I'm introducing
12 it -- is Exhibit P-30.

13 (Exhibit shown.)

14 This is a -- an email -- first, do you
15 see, Ms. Reed, Exhibit P-30 in front of you?

16 A. Yes.

17 Q. Take a moment just to read -- there's a
18 lot of redactions here, but take a moment to read this
19 text and let me know when you finish.

20 MR. KOLANSKY: Jon, can I ask just where
21 this came from? Did it come from us?

22 MR. FEINBERG: No, it came from John
23 Ninosky's office earlier in the case.

24 MR. KOLANSKY: Gotcha.

25 THE WITNESS: Okay.